

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PALISADES ESTATES EOM, LLC, NEWBURGH EOM LLC d/b/a
CROSSROADS HOTEL, RATAN NEWBURGH LLC d/b/a RAMADA
by WYNDHAM, SOUTH ROAD HOSPITALITY, LLC, HUDSON
CONFERENCE CENTER, LLC, ROUTE 9 HOTEL LLC, SAI RAM
MANAGEMENT LLC, SANDIP PATEL, RAPID RELIABLE TESTING
NY LLC, AIMS NEWBURGH MANAGEMENT LLC, AIMS
ORANGEBURGH MANAGEMENT LLC, CWP SYRACUSE I LLC,
and ES ALBANY LLC,

Plaintiffs,

v.

COUNTY OF ROCKLAND, et al.,

Defendants.

Case No. 7:23-cv-04215

**AFFIDAVIT OF
TYLER KINNEY
IN SUPPORT OF
MOTION FOR A
PRELIMINARY
INJUNCTION**

STATE OF NEW YORK)
) ss.:
COUNTY OF ALBANY)

TYLER KINNEY, being duly sworn, deposes and says:

1. I am the general manager of the Surestay Plus by Best Western Albany Airport, (the “Surestay”), a 153-room hotel located in Colonie, New York (which is in Albany County). I have personal knowledge of the facts and circumstances set forth herein and submit this affidavit in support of Plaintiffs’ motion for a preliminary injunction.

A. The Surestay Agrees to Accommodate Asylum Refugees

2. Surestay agreed to rent hotel rooms to temporarily accommodate 24 migrants and asylum seekers (collectively, “Asylum Refugees”) as part of an arrangement with the City of New York. As part of this arrangement, the City of New York agreed to pay for the hotel rooms and provide food, laundry, and a full array of medical and social services for the Asylum Refugees staying at the Surestay. These 24 Asylum Refugees arrived at the Surestay on May 27, 2023.

B. Albany County Issues an Executive Order Seeking to Exclude Asylum Refugees

3. After the Surestay agreed to accommodate Asylum Refugees, the Albany County Executive Declared a State of Emergency and issued Albany County Emergency Order #1 (the “Albany Executive Order”), which I understand was issued on or about May 23, 2023. A copy of the Albany Executive Order is annexed to the accompanying declaration of Todd E. Soloway as Exhibit P.

4. It is my understanding the Albany Executive Order prohibits any municipality (like the City of New York) from making contracts “with persons, businesses or entities doing business within the County to transport migrants or asylum seekers to locations in the County, or to house persons at locations in the County for any length of time without the express written permission of the County Executive or his designee.” I also understand the Albany Executive Order prohibits any hotel in Albany County from “contract[ing] or otherwise engag[ing] in business with any other municipality other than the County of Albany ... for the purpose of providing housing or accommodations for migrants or asylum seekers without a license granted by the County.”

C. The Town of Colonie Commences Litigation Against the Surestay to Prevent it from Accommodating Asylum Refugees

5. Although Albany County has not taken any action to enforce the Albany Executive Order or otherwise prevent the Surestay from temporarily accommodating Asylum Refugees, on or about May 27, 2023, the Town of Colonie (located in Albany County) and its Town Supervisor, Peter G. Crummey, commenced a legal action in the Supreme Court, Albany County, against the Surestay and the City of New York, among other parties, captioned *Town of Colonie, et al. v. City of New York, et al.*, Albany County Index No. 904641-23. In that action, the Town of Colonie alleges, *inter alia*, that the Surestay’s temporary accommodation of Asylum Refugees violates the

Albany Executive Order and constitutes operation of a “homeless shelter” in violation of “the zoning rules and regulation of the Town of Colonie.”

6. For a short period of time, the Surestay was subject to a temporary restraining order, issued by the Albany County Supreme Court on May 28, 2023, which prevented the use of the Surestay for Asylum Refugees. However, on or about June 20, 2023, the Court denied Colonie’s motion for a preliminary injunction and vacated the temporary restraining order, allowing the Surestay to resume providing rooms to Asylum Refugees. On or about July 27, 2023, the Appellate Division, Third Department, denied Colonie’s appeal, affirming the decision of the Albany Supreme Court denying Colonie’s motion for a preliminary injunction.

**D. Colonie Engages in Extrajudicial Enforcement Actions
and Harassment Targeted at the Surestay**

7. During the week of June 19, 2023 – after the Supreme Court denied Colonie’s motion for a preliminary injunction – an individual identifying himself as the Colonie Deputy Chief of Police called Surestay and informed the Hotel it soon would be violating certain Colonie town ordinances by accommodating Asylum Refugees, and that such violations may result in significant monetary penalties as well as jail time.

8. Then, the following week, on June 30, 2023, an officer of the Colonie Police Department entered the hotel (after confirming he did not have a warrant or other legal process) and demanded production of confidential business records pertaining to any guest that was an Asylum Refugee. While he was at the hotel, the officer confirmed that Colonie had not sought to enforce any local laws, codes, or ordinances against, or conduct any similar search at, any other hotel in Colonie.

9. When the Surestay declined to comply with this warrantless search, the Colonie Deputy Chief of Police issued an Appearance Ticket to the Surestay, commanding it to appear on

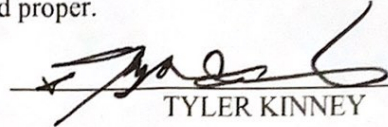
July 6, 2023, for the supposed violation of the Colonie Town Code. Colonie then commenced another legal action against the Surestay in the Justice Court of the Town of Colonie entitled *The People of The State of New York v. Surestay Plus by Best Western Albany Airport*, Case No. 23070078 (the “Justice Court Action”), bringing largely the same claims it raised in its motion for a preliminary injunction which was denied the Albany County Supreme Court, as affirmed by the Third Department.

10. On or about August 4, 2023, the Albany County Supreme Court issued an order temporarily staying the Justice Court action and temporarily enjoining the Town of Colonie from enforcing its zoning laws to preclude the Surestay’s accommodation of Asylum Refugees.

E. The Surestay Continues to Face Harassment and Intimidation Tactics Perpetrated by the Town of Colonie

11. While the Surestay is now able to accommodate Asylum Refugees, the Surestay continues to face Colonie’s extrajudicial harassment and intimidation tactics, not to mention what appears to be relentless crusade to use the court system as a means of precluding or deterring the Surestay from accommodating Asylum Refugees.

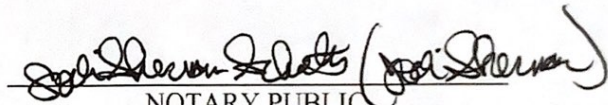
WHEREFORE, it is respectfully requested that the Court grant the motion in its entirety,
along with such other and further relief as is just and proper.


TYLER KINNEY

UNIFORM, ALL PURPOSE CERTIFICATE OF ACKNOWLEDGEMENT

STATE OF NEW YORK)
) ss.:
COUNTY OF ALBANY)

On the 7 day of August, 2023, before me, the undersigned, personally
appeared TYLER KINNEY, personally known to me or proved to me on the basis of satisfactory
evidence to be the individual whose name is subscribed to the within instrument and
acknowledged to me that he/she executed the same in his/her capacity, and that by his/her
signature on the instrument, the individual, or the person upon behalf of which the individual
acted, executed the instrument.


NOTARY PUBLIC

Joell Sherman Schultz
01SH191014
Notary Public, State of New York
Qualified in Albany County
My commission expires JANUARY 22nd, 2024

24